BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA

In the Matter of the Accusation Against:

STANLEY LEE NG 19925 La Mar Drive Cupertino, CA 95014 Certified Public Accountant Certificate No. **67107** .

Respondent.

Case No. AC-2012-42

OAH No. 2013010639

DECISION AND ORDER

The attached Stipulated Surrender of License and Order are hereby adopted by the California Board of Accountancy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on June 29, 2013

It is so ORDERED Ma

DEPARTMENT OF CONSUMER AFFAIRS

1							
1	Kamala D. Harris Attorney General of California						
2	DIANN ŠOKOLOFF						
3	Supervising Deputy Attorney General KIM M. SETTLES						
4	Deputy Attorney General State Bar No. 116945						
5	1515 Clay Street, 20th Floor P.O. Box 70550						
6	Oakland, CA 94612-0550 Telephone: (510) 622-2138						
7	Facsimile: (510) 622-2270 Attorneys for Complainant						
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	BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY						
9	DEPARTMENT OF CONSUMER AFFAIRS STATE OF CALIFORNIA						
10							
11	In the Matter of the Accusation Against: Case No. AC-2012-42						
.12	STANLEY LEE NG 19925 La Mar Drive OAH No. 2013010639						
13	Cupertino, CA 95014 STIPULATED SURRENDER OF						
14							
15	Respondent.						
16	IT IS HEREBY STIPULATED AND AGREED by and between the parties in this						
17	proceeding that the following matters are true:						
18	<u>PARTIES</u>						
19	1. Patti Bowers (Complainant) is the Executive Officer of the California Board of						
20	Accountancy ("CBA"). She brought this action solely in her official capacity and is represented						
21	in this matter by Kamala D. Harris, Attorney General of the State of California, by Kim M.						
22	Settles, Deputy Attorney General.						
23	2. Stanley Lee Ng (Respondent) is representing himself in this proceeding and has						
24	chosen not to exercise his right to be represented by counsel.						
25	3. On or about July 29, 1994, the California Board of Accountancy issued Public						
26	Accountant Certificate No. 67107 to Stanley Lee Ng (Respondent). The Certified Public						
27	Accountant Certificate expired on September 30, 2012, and has not been renewed.						
28							

JURISDICTION

4. Accusation No. AC-2012-42 was filed before the California Board of Accountancy (CBA), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on December 11, 2012. Respondent timely filed his Notice of Defense contesting the Accusation. A copy of Accusation No. AC-2012-42 is attached as exhibit A and incorporated by reference.

ADVISEMENT AND WAIVERS

- Respondent has carefully read, and understands the charges and allegations in
 Accusation No. AC-2012-42. Respondent also has carefully read, and understands the effects of this Stipulated Surrender of License and Order.
- 6. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel, at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.
- 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

CULPABILITY

- 8. Respondent admits the truth of each and every charge and allegation in Accusation No. AC-2012-42, agrees that cause exists for discipline and hereby surrenders his Certified Public Accountant Certificate No. 67107 for the CBA's formal acceptance.
- 9. Respondent understands that by signing this stipulation he enables the CBA to issue an order accepting the surrender of his Public Accountant Certificate without further process.

CONTINGENCY

10. This stipulation shall be subject to approval by the California Board of Accountancy. Respondent understands and agrees that counsel for Complainant and the staff of the California

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Board of Accountancy may communicate directly with the CBA regarding this stipulation and surrender, without notice to or participation by Respondent. By signing the stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek to rescind the stipulation prior to the time the CBA considers and acts upon it. If the CBA fails to adopt this stipulation as its Decision and Order, the Stipulated Surrender and Disciplinary Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the CBA shall not be disqualified from further action by having considered this matter.

- 11. The parties understand and agree that facsimile copies of this Stipulated Surrender of License and Order, including facsimile signatures thereto, shall have the same force and effect as the originals.
- 12. This Stipulated Surrender of License and Order is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Surrender of License and Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.
- 13. In consideration of the foregoing admissions and stipulations, the parties agree that the CBA may, without further notice or formal proceeding, issue and enter the following Order:

ORDER

IT IS HEREBY ORDERED that Certified Public Accountant Certificate No. 67107, issued to Respondent Stanley Lee Ng, is surrendered and accepted by the California Board of Accountancy.

1. The surrender of Respondent's Certified Public Accountant Certificate and the acceptance of the surrendered license by the CBA shall constitute the imposition of discipline against Respondent. This stipulation constitutes a record of the discipline and shall become a part of Respondent's license history with the California Board of Accountancy.

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- 2. Respondent shall lose all rights and privileges as a Certified Public Accountant in California as of the effective date of the CBA's Decision and Order.
- 3. Respondent shall cause to be delivered to the CBA his pocket license and, if one was issued, his wall certificate on or before the effective date of the Decision and Order.
- 4. If Respondent ever files an application for licensure or a petition for reinstatement in the State of California, the CBA shall treat it as a petition for reinstatement. Respondent must comply with all the laws, regulations and procedures for reinstatement of a revoked license in effect at the time the petition is filed, and all of the charges and allegations contained in Accusation No. AC-2012-42 shall be deemed to be true, correct and admitted by Respondent when the CBA determines whether to grant or deny the petition.
- 5. Respondent shall pay the agency its costs of investigation and enforcement in the amount of \$9,588.35 prior to issuance of a new or reinstated license.

ACCEPTANCE

I have carefully read the Stipulated Surrender of License and Order. I understand the stipulation and the effect it will have on my Certified Public Accountant Certificate. I enter into this Stipulated Surrender of License and Order voluntarily, knowingly, and intelligently, and agree to be bound by the Decision and Order of the California Board of Accountancy.

DATED:	3/20/13		Stanley La	Ma
		·	STANLEY LEE NG Respondent	<i>V</i>

ENDORSEMENT

The foregoing Stipulated Surrender of License and Order is hereby respectfully submitted for consideration by the California Board of Accountancy of the Department of Consumer Affairs.

Dated:

3/20/13

Respectfully submitted,

KAMALA D. HARRIS Attorney General of California DIANN SOKOLOFF Supervising Deputy Attorney General

Kim M. Settles

Deputy Attorney General
Attorneys for Complainant

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Exhibit A

Accusation No. AC-2012-42

1	•					
1	Kamala D. Harris			•		
2	Attorney General of California DIANN SOKOLOFF					
ż	Supervising Deputy Attorney General		•			
3	KIM M. SETTLES Deputy Attorney General		•			
4.	State Bar No. 116945 1515 Clay Street, 20th Floor					
.5	P.O. Box 70550	·				
.6	Oakland, CA 94612-0550 Telephone: (510) 622-2138					
7	Facsimile: (510) 622-2270 Attorneys for Complainant					
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.]	BEFORE THE CALIFORNIA BOARD OF ACCOUNTANCY					
9	DEPARTMENT OF C STATE OF C	CALIFORNIA	IKS	٠	•	
10						
11	In the Matter of the Accusation Against:	Case No. AC-2012	-42			
12	STANLEY LEE NG	ACCUSATIO	N	•	ı	
13	505 W. Alisal Street Salinas, CA 93901		•	•		
14	Certified Public Accountant Certificate No.	• •			-	
15	67107	,			•	
	Respondent.					
16						
17	Complainant alleges:					
18	PAR	TIES		:		
19	1. Patti Bowers (Complainant) brings this Accusation solely in her official capacity as					
20	the Executive Officer of the California Board of Accountancy, Department of Consumer Affairs					
21	2. On or about July 29, 1994, the California Board of Accountancy issued Certified					
22	Public Accountant Certificate Number 67107 to Stanley Lee Ng (Respondent). The Certified					
23	Public Accountant Certificate expired on September 30, 2012.					
24						
	JURISDICTION				18	
25	3. This Accusation is brought before the California Board of Accountancy (Board),					
26	Department of Consumer Affairs, under the authority of the following laws. All section					
27	references are to the Business and Professions Code (Code) unless otherwise indicated.			• •		
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STATUTORY/REGULATORY PROVISIONS

4. Section 5100 of the Code states:

"After notice and hearing the board may revoke, suspend, or refuse to renew any permit or certificate granted under Article 4 (commencing with Section 5070) and Article 5 (commencing with Section 5080), or may censure the holder of that permit or certificate for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

- "(a) Conviction of any crime substantially related to the qualifications, functions and duties of a certified public accountant or a public accountant.
- "(h) Suspension or revocation of the right to practice before any governmental body or agency.
- "(1) The imposition of any discipline, penalty, or sanction on a registered public accounting firm or any associated person of such firm, or both, or on any other holder of a permit, certificate, license, or other authority to practice in this state, by the Public Company Accounting Oversight Board or the United States Securities and Exchange Commission, or their designees under the Sarbanes-Oxley Act of 2002 or other federal legislation."
 - 5. Section 5106 of the Code states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this article. The record of the conviction shall be conclusive evidence thereof. The board may order the certificate or permit suspended or revoked, or may decline to issue a certificate or permit, when the time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal or when an order granting probation is made, suspending the imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty or dismissing the accusation, information or indictment."

- 6. Section 490 of the Code provides, in pertinent part, that a board may suspend or revoke a license on the ground that the licensee has been convicted of a crime substantially related to the qualifications, functions, or duties of the business or profession for which the license was issued.
- 7. Section 5063, subdivision (a)(1) of the Code requires a licensee to report in writing to the Board within 30 days all felony convictions and convictions of any crime related to the qualifications, functions or duties of a licensee or acts or activities in the course and scope of the practice of public accountancy; or involving theft, embezzlement, misappropriation of funds or property, breach of a fiduciary responsibility, or the preparation, publication, or dissemination of false, fraudulent, or materially misleading financial statements, reports or information.
- 8. California Code of Regulations, title 16, section 99 provides that a crime or act is substantially related to the qualifications, functions, or duties of a CPA if, to a substantial degree, it evidences present or potential unfitness to perform the functions authorized by the licensee's certificate or permit in a manner consistent with the public health, safety, or welfare, including but not limited to, those crimes involving fiscal dishonesty, or breach of fiduciary responsibility of any kind.
 - 9. California Code of Regulations, title 16, section 99.1 states:

"When considering the denial of a certificate or permit under Section 480 of the Business Code, the suspension or revocation of a certificate or permit or restoration of a revoked certificate under Section 11522 of the Government Code, the board, in evaluating the rehabilitation of the applicant and his present eligibility for a certificate or permit, will consider the following criteria:

- (1) Nature and severity of the act(s) or offense(s).
- (2) Criminal record and evidence of any act(s) committed subsequent to the act(s) or offense(s) under consideration which also could be considered as grounds for denial, suspension or revocation.
- (3) The time that has elapsed since commission of the act(s) or offense(s) referred to in subdivision (1) or (2).

- (4) The extent to which the applicant or licensee has complied with any terms of parole, probation, restitution, or any other sanctions lawfully imposed against the applicant or licensee.
- (5) If applicable, evidence of expungement proceedings pursuant to Section 1203.4 of the Penal Code.
 - (6) Evidence, if any, of rehabilitation submitted by the applicant or licensee.

COST RECOVERY

10. Section 5107, subdivision (a) of the Code states:

"The executive officer of the board may request the administrative law judge, as part of the proposed decision in a disciplinary proceeding, to direct any holder of a permit or certificate found to have committed a violation or violations of this chapter to pay to the board all reasonable costs of investigation and prosecution of the case, including, but not limited to, attorneys' fees.

The board shall not recover costs incurred at the administrative hearing.

FIRST CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Conviction of Crimes)

- 11. Respondent's license is subject to disciplinary action under sections 490 and 5100, subdivision (a), in that on or about December 7, 2011, in a criminal proceeding entitled *United States of America v. Stanley Ng*, in United States District Court, Southern District of New York, Case No. 11 MAG 2096, Respondent was convicted by his plea of guilty of a violation Title 18, United States Code Section 1343 (conspiracy to commit wire fraud); Title 18, United States Code, sections 78j, subdivision (b) and 78ff; and Title 17 Code of Federal Regulations, section 240.10, subdivision (b)(5) (conspiracy to commit securities fraud). The crimes are substantially related to the practice of accountancy.
- 12. The circumstances of the crimes are that from in or about 2006, up to and including in or about late 2010, Respondent, while employed as the United States Securities and Exchange Commission Reporting Manager at Marvell Technology Group, Ltd., conspired with others to commit securities fraud and wire fraud by providing material, non-public information to others, for the purpose of executing profitable securities transactions.

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SECOND CAUSE FOR DISCIPLINE

(Failure to Report a Reportable Event)

13. Respondent's license is subject to disciplinary action under section 5063, subdivision (a)(1), in that on December 7, 2011, Respondent was convicted of the crimes described in paragraph 12, above, but he did not report the conviction to the Board. The Board received notice of Respondent's conviction through a third party, via an e-mail from the "Press Assistant" for the United States Attorney's Office for the Southern District of New York. Respondent's Certified Public Accountant certificate is subject to discipline under Code section 5063, subdivision (a)(1) in that he failed to report his conviction to the Board.

THIRD CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Suspension of Right to Practice)

14. Respondent's license is subject to disciplinary action under section 5100, subdivision (h), in that on or about July 12, 2012, Respondent was suspended from practicing before the Security Exchange Commission, based on the conduct described in paragraphs 11 and 12, above.

FOURTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct - Imposition of Penalty, Discipline, or Sanction)

15. Respondent's license is subject to disciplinary action under section 5100, subdivision (I), in that on or about July 12, 2012, the Security Exchange Commission ordered Respondent to pay disgorgement of \$6,464.00 and prejudgment interest of \$984.23, for a total of \$7,448.23, and a fine in the amount of \$2,000.00, to the Security Exchange Commission to be remitted to the United States Treasury, based on the conduct described in paragraphs 11 and 12, above.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters alleged in this Accusation, and that following the hearing, the California Board of Accountancy issue a decision:

 Revoking, suspending or otherwise imposing discipline on Certified Public Accountant Certificate Number CPA 67107 issued to Stanley Lee Ng.

1	2. Ordering Stanley Lee Ng to pay the California Board of Accountancy the reasonable
2	costs of the investigation and prosecution of this case, pursuant to Business and Professions Code
3	section 5107;
4	3. Taking such other and further action as deemed necessary and proper.
5	DATED: WOVEMBER 30, 2012 - LOFT BULL
6	PATTI BOWERS Executive Officer
7	California Board of Accountancy Department of Consumer Affairs
8	State of California Complainant
9	Con priming.
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Accusation